

a statistical report from the data [associated with the consumer's interactions with the present interactive advertising message/computerized game]; or (b) providing the statistical report to the commercial entity.

In an apparent attempt to compensate for the failings of the prior art, the Examiner makes an unsubstantiated argument that "[i]t would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide a report to the commercial entity. This would aid the commercial entity in knowing how well-received their game is."<sup>20</sup> Appellants respectfully disagree.

Significantly, neither Guyett nor McIntyre provides any indication whatsoever of providing a statistical report to advertisers as recited in claims 33 and 67. Guyett only collects data associated with consumer's interactions to determine whether a computer payoff or prize is due the consumer,<sup>21</sup> while McIntyre teaches the antithesis of statistical reporting to advertisers. As discussed previously, McIntyre only counts the occurrences of sponsor ads provided to a game. More importantly, McIntyre teaches those skilled in the art *not* to contact the advertisers other than for billing purposes.<sup>22</sup> It's no wonder, then, that neither of these references discloses Appellants' claimed steps of generating and providing the statistical report.

Consequently, for at least the above reasons, it is respectfully submitted that independent claims 33 and 67 are allowable over the combination of Guyett and McIntyre as these references fail to disclose each and every one of the limitations of claims 33 and 67. Moreover, even if it is presumed solely for arguments sake that Guyett and McIntyre disclose each of the limitations of claims 33 and 67, McIntyre clearly teaches away from being combined with Guyett to read on Appellants' claims by explicitly disclosing the objective of *not* directly contacting advertisers. Additionally, claims 34-49 and 64-66 that depend from claim 33 and claims 68-70 that depend from claim 67 are allowable for at least the same reasons as given above for claims 33 and 67. Thus, Appellants request reversal of the 35 U.S.C. § 103(a) ground of rejection as applied to claims 33-37, 42, 45, and 67.

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<sup>20</sup> September 6, 2006 Office action, p. 7.

<sup>21</sup> U.S. Patent No. 6,764,395 to Guyett, col. 10, lines 17-20, as cited by the September 6, 2006 Office action.

<sup>22</sup> U.S. Pub. Patent App. No. 2003/0191690 to McIntyre et al., ¶ [0043].